

**PART I – NOT DELEGATED**

**5. LOCAL PLAN UPDATE: LOCAL DEVELOPMENT SCHEME (DCES)**

**1 Summary**

1.1 The purpose of this report is:

- to provide Members with an update on the progress on the evidence based studies yet to be completed for the Local Plan,
- to propose an additional consultation stage –‘Preferred Options’
- to present a revised timetable for the production of the Local Plan in a revised Local Development Scheme

**2 Details**

**2.1 Evidences Based Studies**

2.2 The majority of evidenced based studies that inform our new Local Plan are complete, however, there are two that are likely not to be completed until the end of the year.

**2.3 Transport Assessments**

2.4 As reported to the Local Plan Sub Committee on 22 January 2020, the initial high level results of the Hertfordshire County Council’s County Wide Transport Model (COMET) were expected at the end of March 2020. The final COMET (referred to as the Local Plan Run 5) was received in June.

2.5 The COMET modelling work tests the impact of implementing transport schemes identified by HCC through the South West Herts Growth and Transport Plan and Local Growth and Transport Plans, where they exist, (including those classed as hypothetical) and those identified in the Hertfordshire LPAs individual Infrastructure Delivery Plans. The sites identified by the LPAs for potential allocation in new Local Plans (as at August 2019) are then added together with sites that are already in the planning system but not yet built out.

2.6 The model run is therefore based on the assumed planning data and schemes at a certain point in time, including a number which are classified as hypothetical.

2.7 The COMET run therefore only allows for the identification of the high-level impact of potential schemes and gives only an indication whether there is a need to mitigate the additional pressure from development growth.

2.8 As previously reported to the Local Plan Sub Committee, further more detailed transport modelling is now required to identify the impacts of potential development sites on the transport network and to identify the specific mitigation measures required across the transport network. The additional work will also need to produce a prioritised transport infrastructure list with schemes that have been costed to a level suitable for viability work and to be included in the Infrastructure Delivery Plan for the new Local Plan.

- 2.9 Officers have been working closely with Hertfordshire Highways over the last month on the scope of the additional work to ensure that it meets the National Planning Policy Framework requirements and those of HCC Highways.
- 2.10 It is anticipated that the additional transport work will take up to 4 months to complete.
- 2.11 Strategic Flood Risk Assessment Stage 2
- 2.12 We have also just received notification from the Environment Agency (EA), who were consulted on the Strategic Flood Risk Assessment Stage 1 and 2 studies, that they require further modelling be done in relation to Climate Change Allowances which will take a number of months to complete.
- 2.13 We are in the process of agreeing a finite scope and timescale for the modelling with the EA but it is anticipated that this work will not be concluded until the end of the year.
- 2.14 Publication Requirements
- 2.15 The Town and Country Planning (Local Planning) (England) Regulations 2012 require that the evidence based studies that are relevant to the preparation of the Local Plan have to be completed and published alongside the Publication version of the Draft Plan.
- 2.16 Summary
- 2.17 Although the Transport Assessment and SFRA (additional modelling) are not required for Members to make a decision on sites, they are required to inform the contents of the Draft Local Plan, the Infrastructure Delivery Plan (IDP) and the Whole Plan Viability Assessment (WPVA).
- 2.18 Whilst work continues on the IDP and WPVA these cannot be finalised until after receipt of the final Transport Assessment and additional modelling work for the SFRA. As a result we will not be in a position to proceed to the publication stage of the Local Plan in December 2020.
- 2.19 Preferred Options Consultation
- 2.20 The Town and Country Planning (Local Planning) (England) Regulations 2012 sets out two consultation stages for Local Plans:
- Regulation 18:  
  
Is commonly known as 'Issues and Options' and is a document that sets out the issues facing the District and the options to address these issues and invites stakeholders to make representations about what the Local Plan should contain, and
  - Regulation 19:  
  
Known as 'Publication' which is not set up to deliver consultation on a plan. It is designed to allow representors who are not content with a published local plan to make representations to that effect (on 'soundness'). These representations are then sent to the Inspector for consideration. There is no opportunity for substantive changes following the publication of a plan.

- 2.21 An Issues and Options consultation was undertaken in accordance with Regulation 18 in 2017. We also undertook a consultation on all the sites that had been submitted for consideration to gain additional information from stakeholders about the sites in the Potential Sites Document approved by the Policy & Resources Committee (October 2018). The responses to these consultations have been considered in the Local Plan process.
- 2.22 Although legally we are required only to undertake two consultations (Issues and Options and Publication) given that there will now be a delay in the Publication of the Local Plan there is an opportunity to undertake a further Regulation 18 consultation often referred to as a 'Preferred Options' which would be beneficial for the following reasons:
- As the Issues & Options Consultation was very high level, a further consultation may raise substantive issues which we are not aware of or taken into account in reaching the decisions on the content of the plan and allows time to make any necessary changes before we reach the Regulation 19 stage
  - Although we have been working very closely with neighbouring authorities under the Duty to Cooperate and consulting relevant stakeholders on the methodologies of evidence based studies, an additional consultation will allow other bodies and residents that may have concerns about the plan or Duty to Cooperate Issues to raise them and enable us time to address them prior to the Regulation 19 stage (the Duty to Cooperate cannot be rectified at Regulation 19 Stage)
  - Whilst a two consultation stage is legally sufficient, an additional Preferred Options consultation will make it harder for a promotor of an alternative site to argue that an insufficient level of consultation has been undertaken and an Inspector finding the plan 'unjustified' at examination.
- 2.23 Local Development Scheme
- 2.24 The Local Development Scheme (LDS) sets out the timescale for the preparation of the Local Plan. Given the delay in the completion of the evidence based studies as set out previously in this report and assuming that Members are minded to agree to a Preferred Options consultation a revised LDS has been prepared and attached as Appendix 1 to this report.
- 2.25 It is anticipated that a Preferred Options Consultation Document can be approved for consultation by the Policy & Resources Committee at its meeting on 2 November 2020 (having first been considered by the LPSC)<sup>1</sup> and ready for consultation from 13 November 2020 – 4 January 2021.
- 2.26 Given that any major issues would have been identified through the Preferred Options Consultation it is anticipated that the publication version of the Local Plan can be finalised within a relatively short period following the consultation. It is anticipated that the publication version of the Local Plan can be considered by the Policy & Resources Committee at its meeting on 8 March 2021 (having first been considered by the LPSC) and confirmed by Full Council on 18 May 2021.

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<sup>1</sup> Additional Local Plan Sub Committees required for September and October 2020.

2.27 The consultation on the publication version of the Local Plan and the evidence based studies could then be undertaken in June 2021 for a minimum statutory period of 6 weeks.

2.28 The revised timetable shows that there will be a delay of 3 months to the anticipated adoption of the Local Plan compared to that set out in the February 2020 LDS (see tables below). It should be noted that even without the Preferred Options consultation there would still be a delay in the publication of the local plan of 3 months due to the delay in the completion of the evidence based studies set out earlier in this report. It is considered that the benefits of undertaking an additional Preferred Options Consultation outweigh any such delay.

Local Development Scheme February 2020																			
2020					2021									2022					
A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M
Green	Green	Green	Green	Yellow	Yellow	Yellow	Green	Green	Green	Green	Pink	Pink	Blue	Blue	Blue	Blue	Blue	Blue	Red

Preparation

Preferred Options

Publication Stage

Submission Stage

Examination

Adoption

Revised Local Development Scheme August 2020																							
2020					2021											2022							
A	S	O	N	D	J	F	M	A	M	J	J	A	S	O	N	D	J	F	M	A	M	J	
Green	Green	Green	Green	Green	Purple	Purple	Green	Green	Green	Green	Green	Yellow	Yellow	Green	Green	Pink	Pink	Blue	Blue	Blue	Blue	Blue	Red

### 3 Options and Reasons for Recommendations

3.1 The reasons for recommending an additional Preferred Options consultation are set out in paragraph 2.20. As we will not be in a position to adhere to the timetable as set out in the current LDS (Feb 2020) there is no alternative but to revise the LDS.

### 4 Policy/Budget Reference and Implications

4.1 The recommendations in this report are within the Council’s agreed policy and budgets. The relevant policy is entitled Local Plan.

### 5 Equal Opportunities, Staffing, Environmental, Community Safety, Public Health, Customer Services Centre, Communications and Website Implications Risk Management and Health & Safety Implications

5.1 None specific.

### 6 Financial Implications

6.1 None specific. The preparation of the LDS and the Preferred Options Consultation document are undertaken by the Economic & Sustainable Development Team and the cost of the consultation will be covered by existing budgets.

### 7 Legal Implications

7.1 The legal requirements for the preparation and consultation of Local Plans are set out in Town and Country Planning (Local Planning) (England) Regulations (as

amended). A failure to comply with the statutory requirements may result in the Local Plan being found unsound at the examination in public.

7.2 The Council is required to prepare and regularly review the LDS under the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011). The LDS must be made publicly available and kept up to date to ensure that local communities and interested parties can keep track of progress. The LDS must also be published on the Council's website.

7.3 Planning Practice Guidance re-iterates that Local Development Schemes must be produced in compliance with the data standard for this purpose published by MHCLG and that it is expected to be reviewed and updates at least annually but may need updating more frequently if there are any significant changes in the timescales of the plans being prepared.

## 8 Risk and Health & Safety Implications

8.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

8.2 The subject of this report is covered by the Economic and Sustainable Development service plan. Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

Nature of Risk	Consequence	Suggested Control Measures	Response (tolerate, treat, terminate, transfer)	Risk Rating (combination of likelihood and impact)
lack of an up-to-date LDS could lead to legal challenge	Local Plan could be found not to be 'sound' at examination	Regularly review the LDS	Tolerate	Medium 6

8.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely ----- ▲ Remote -----	<b>Low</b> 4	<b>High</b> 8	<b>Very High</b> 12	<b>Very High</b> 16
	<b>Low</b> 3	<b>Medium</b> 6	<b>High</b> 9	<b>Very High</b> 12
	<b>Low</b> 2	<b>Low</b> 4	<b>Medium</b> 6	<b>High</b> 8

	Low 1	Low 2	Low 3	Low 4
	Impact			
	Low -----> Unacceptable			

**Impact Score**

**Likelihood Score**

4 (Catastrophic)

4 (Very Likely (≥80%))

3 (Critical)

3 (Likely (21-79%))

2 (Significant)

2 (Unlikely (6-20%))

1 (Marginal)

1 (Remote (≤5%))

8.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually.

**9 Recommendation**

9.1 That the Local Plan Sub Committee:

- Note the contents of this report
- Note the 3 month amendment to the timetable for the production of the Local Plan, and
- Recommend to the Policy & Resources Committee the revised Local Development Scheme (which includes a Preferred Options consultation) as set out in Appendix 1.

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**Background Papers**

Issues & Options 2017

Potential Sites Consultation 2018

The Town and Country Planning (Local Planning) (England) Regulations 2012

Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011)

Local Development Scheme (February 2020)

**APPENDICES**

Appendix 1 Revised Local Development Scheme